



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

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PUBLIC MEETING MINUTES:	BOARD OF ARCHITECTS
MEETING DATE AND TIME:	Wednesday, March 6, 2013 at 1:30 p.m.
PLACE:	861 Silver Lake Blvd., Conference Room B, Second floor, Dover, Delaware
MINUTES APPROVED:	April 3, 2013

MEMBERS PRESENT

Kenneth Freemark, RA, Professional Member, President
Kevin Wilson, RA, Professional Member
Peter H. Jennings, RA, Professional Member
Richard Wertz, RA, Professional Member
Brian Lewis, Public Member (Entered at 2:04 p.m.)
Elizabeth Happoldt, Public Member

DIVISION STAFF/DEPUTY ATTORNEY GENERAL

Patricia Davis-Oliva, Deputy Attorney General
Andrew Kerber, Deputy Attorney General
Meaghan Jerman, Administrative Specialist II

ABSENT

Joseph Schorah, Public Member, Secretary
John Mateyko, RA, Professional Member
Prameela Kaza, Public Member

OTHERS PRESENT

Nancy Payne, DE Chapter of AIA
Pat Ryan, RA, DE Chapter of the AIA

Call to Order

Mr. Freemark called the meeting to order at 1:39 p.m. The Board welcomed Deputy Attorney General Patricia Davis-Oliva as their new Board counsel. Introductions were made around the room.

Review and Approval of Minutes

The Board reviewed the minutes of the February 6, 2013 meeting. Ms. Happoldt made a motion to accept the minutes as presented, seconded by Mr. Jennings. The motion passed unanimously.

Unfinished Business

Discussion on Status of Delaware Tech Service Learning Project

Mr. Kerber, the Board's outgoing legal counsel, addressed the Board regarding the Delaware Tech Service Learning Project. Mr. Kerber shared that he had been in contact with legal counsel from Delaware Tech to discuss the Memorandum of Understanding (MOU) that had been negotiated by the Board's Subcommittee. Mr. Kerber stated that a draft he received from Delaware Tech was very close to what was discussed by the Board and the Subcommittee. Mr. Kerber explained that he has drafted some minor revisions to the MOU that will ensure that the project deliverables would clearly not constitute the practice of architecture as defined in the Delaware Code. Specifically, Mr. Kerber stated that he added within the Service Learning Process section: "The deliverables may include student conceptual or schematic designs, but not designs for the actual construction, enlargement or alteration of a structure which has as its principal purpose human habitation or use." Mr. Kerber explained the reason for this is that 24 Del.C. § 302 (5) states "'Practice of architecture' shall mean the rendering or offering to render those services, hereinafter described, in connection with the design and construction, enlargement or alteration of a structure or group of structures which have as their principal purpose human habitation or use". Mr. Kerber stated that it is his belief that the design work that will be performed by students will not constitute the practice of architecture because as it is design work, not in connection with the construction or alteration of a structure which have as their principal purpose human habitation or use. Mr. Kerber explained that he is waiting on a response from Delaware Tech's legal counsel regarding his revisions and he hopes to be able to report back to the Board on the matter at the April meeting.

The Board reviewed a letter written by DAG Mr. Kerber in response to the February 6, 2013 letter from AIA Delaware regarding the Delaware Tech Service Learning Project. Mr. Kerber read the letter aloud to the Board.

The Board discussed what Delaware Tech campuses would be covered under the MOU. Mr. Kerber stated that he drafted the MOU only for the Georgetown campus and Delaware Tech will need to notify the board if they want to expand the program to other campuses. The Board discussed the draft MOU provided by Mr. Kerber and provided additional thoughts and feedback. There was concern regarding the student's potential use of the drawings that are completed for the project for post-Delaware Tech work such as portfolios. Mr. Kerber stated in this instance the student would once again not be using a design for the construction and habitation of a building.

Mr. Jennings stated that he plans to discuss the Delaware Tech matter when he attends the NCARB Spring Regional Meeting and will inquire if other states have had similar experiences and how it has been handled.

Public Comment

Mr. Freemark allowed the AIA representation who were present at the meeting to address the Board concerning the Delaware Tech Service Learning Project. Patrick Ryan, RA addressed the Board. Mr. Ryan stated that as a member of the Subcommittee with Delaware Tech the deliverables were discussed to include record drawings and artist renderings. Mr. Ryan stated that he is now hearing the Board state that the deliverables will include artist renderings and schematic drawings and asked that this distinction be noted. Mr. Ryan stated that if these designs are not being used for construction purposes, he has concerns that this argument could open a gap for unlicensed practice. Mr. Kerber clarified that the purpose of the objective of the Board is to protect the public from unsafe practices and he fails to see how there is unsafe practice taking place from Delaware Tech student's completing basic design work. Mr. Ryan explained that AIA supports the work that the Board is doing with Delaware Tech and he is hopeful Mr. Jennings will glean additional information for the Board to consider at the NCARB regional meeting. Mr. Ryan also clarified to the Board that these are actual

projects that will be executed by the Delaware Tech Service Learning class and are not hypothetical projects.

Mr. Freemark summarized that the Board will wait to hear what information Mr. Jennings reports back to the Board after the NCARB regional meeting as well as will wait for Mr. Kerber to hear back from the Delaware Tech legal counsel before they move forward on the Delaware Tech matter.

Discussion of Possible Regulation Changes Regarding Continuing Education Requirements

Mr. Jennings provided a copy of the minutes from the September 2012 Board meeting that addressed the new Continuing Education requirements that were discussed when NCARB staff attended a Board meeting. Mr. Jennings stated he and Mr. Wilson would like to discuss drafting the letter that will be sent to licensees with the Division's System Administrator that would essentially state for this renewal cycle the previous rules will be followed, but the new requirements will be implemented for the 2013-2015 renewal period. 12 CE would need to be completed in each calendar year of 2013 and 2014 and licensees will attest to the completion of 24 CE during the July 2015 renewal. Mr. Jennings stated that Delaware is ahead of the curve in implementing the new NCARB requirements.

Ms. Davis-Olivia inquired if the Board was interested in doing a phase in of CE requirements based on when the individual is licensed. Mr. Jennings shared that the Board would be interested in addressing this issue within their Rules and Regulations and that he plans to discuss how other states have implemented the new CE requirements at the NCARB regional meeting and will report back to the Board.

Re-Review of Re-Application by NCARB Certificate – Joe Powers – Tabled at February Meeting

Mr. Wertz reviewed the application of Joe Powers who was tabled at the February Board meeting. Ms. Jerman obtained additional educational information from NCARB for Mr. Powers' application. Although Mr. Powers does not have a NAAB accredited degree, he received his NCARB certificate at a time when the requirements did not mandate this requirement and Mr. Powers was able to use his education as well as professional experience to obtain an NCARB certificate. Mr. Wertz made a motion to approve Mr. Powers for licensure, seconded by Mr. Jennings. The motion passed unanimously.

Discussion of NCARB Spring Regional Meeting (March 14-16)

Mr. Jennings shared that he is planning to talk with other states at the NCARB Regional Meeting regarding implementation of the new CE requirements as well as if any other states have had any student projects similar to Delaware Tech that have been brought before the Board. Board members agreed this information would be very helpful.

Status of Complaints

Complaint 07-03-11 has been assigned to an Investigator.

Complaint 07-02-12 has been forwarded to the Attorney General's Office.

Complaint 07-04-11 has been forwarded to the Attorney General's Office.

Ms. Jerman explained that per the Board's request, she consulted with the Investigative Unit and these are the only current pending complaints for the Board of Architecture. Mr. Jennings stated that he went through past meeting minutes on this subject and has concerns that some complaints may have slipped through the cracks. Mr. Jennings stated that the Board was informed of the dismissal of a complaint back in February 2012 and that the Board contact, Mr. Freemark, had never been contacted about the complaint. Mr. Jennings stated that if there had been contact made with Mr. Freemark there may have been a different outcome. Mr. Jennings stated that he would like to have

some key dates included on the list regarding the complaint including the date the complaint was made, the date it was assigned, and the date that complaint is dismissed or forwarded to the Attorney General's office. Mr. Jennings made a motion, seconded by Mr. Wilson to request Board staff track the dates of when complaints are initially filed, when it is assigned to an Investigator, and when it has been either dismissed or forwarded to the Attorney General's office for the Board's tracking purposes. The motion passed unanimously.

The Board discussed the Division's policy for complaints. Ms. Davis-Oliva explained why only the contact person is privy to specifics regarding the complaint. Ms. Davis-Oliva informed the Board that the Division is running a bill this legislative session that will address unlicensed practice. This bill will give the Division's Investigators the option to ticket on the spot if they see unlicensed practice and the individual may be fined. Ms. Davis-Oliva shared that she hopes that this will address some of the Board's concerns over unlicensed practice.

New Business

Discussion of Executive Order 36

Ms. Davis-Oliva informed the Board of Executive Order 36. Ms. Davis-Oliva explained the purpose of the Order and explained that any public comments received pertaining to the Board would be summarized and sent to the Board for review. Ms. Davis-Oliva explained the Division is also encouraging the Board to review their regulations as part of this Order. Mr. Jennings stated that the Board reviewed their regulations last year and made changes at that time. Mr. Jennings stated that the topic of adding an Emeritus Status to their Regulations was discussed but no conclusion had been determined. Ms. Davis-Oliva stated she would review the Board's statute to determine if this was a status could be added by regulation change in the future.

New Complaints Assigned to a Contact Person

None

Ratification of Certificate of Authorization Applications

Mr. Jennings made a motion, seconded by Mr. Wilson to ratify the certificate of authorization issued to Hellmuth, Obata, & Kassabaum, Inc; Chester, Ploussas, Lisowsky Partnership, LLC; R2 Architects; Benefield Richters Company, Inc.; Edwards + Hotchkiss Architects, PC; Humphreys & Partners Architects. The motion carried unanimously.

Ratification of Reciprocity Applications – NCARB Certificate

Mr. Wilson made a motion, seconded by Mr. Jennings, to ratify the listing of issued licenses to NCARB Certified architects by reciprocity. The motion carried unanimously.

Geoffrey Lim
Daniel Barney

James Farrell
Ramla Benaissa

Gregory Sparhawk

Review of Reciprocity Applications by NCARB

Michael Cummings

Mr. Wertz review Mr. Cumming's application. Mr. Wertz explained Mr. Cummings had a minor discipline in Texas that was later waived. Mr. Wertz confirmed that Mr. Cumming's meets all the requirements for licensure and disclosed the discipline on his application. Mr. Wertz recommended that Mr. Cummings be approved for licensure, seconded by Mr. Wilson. The motion passed unanimously.

Review of Direct Applications for Reciprocity

Trent Tesch

Mr. Jennings reviewed Mr. Tesch's application. Mr. Tesch has a Bachelors of Architecture from the University of Cincinnati in 1996 and is currently licensed in New York. Mr. Jennings stated that the application does meet all the requirements for licensure. Mr. Jennings made a motion to approve Mr. Tesch's application, seconded by Mr. Wertz. The motion carried unanimously.

Carl Krienen

Mr. Wilson reviewed the application for Mr. Krienen. Mr. Krienen has a Bachelors of Architecture from Catholic University of America. Mr. Krienen meets all the requirements for licensure. Mr. Wilson made a motion, seconded by Mr. Jennings, to approve Mr. Krienen for licensure. The motion carried unanimously.

Other Business Before the Board (for discussion only)

Ms. Davis-Oliva provided the Board with a draft of proposed changes to the regulations concerning the proration of CE. The Board will review and discuss further at their April meeting. Additionally, Mr. Wilson pointed out that the regulations were not renumbered when they updated them last year. Ms. Davis-Oliva will see that when the Board makes any regulation changes that the regulations are renumbered correctly.

Mr. Jennings advised the Board that the Division is moving forward with their Bill to change a portion of the statute regarding the IDP. Mr. Jennings inquired if Board members had any suggestions on who the Division could approach to sponsor the Bill. The Board discussed the matter. Ms. Happoldt recommended seeing if Brian Bushweller would be interested in sponsoring their bill. Ms. Jerman will notify Division staff of this suggestion.

Mr. Jennings stated that he is hoping that the Board can begin putting out a regular newsletter. Mr. Jennings would like the newsletter to include any fines that have been paid by licensees and also focusing on a specific rule for each issue. Mr. Jennings stated that he has suspicion that people may not be following the requirement of adding an expiration date with their seal and this may be a topic to highlight within the newsletter.

Next Scheduled Meeting

The next meeting will be held on April 3, 2013 at 1:30 p.m. in Conference Room B, second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

Adjournment

With no further business before the board, Mr. Freemark made a motion to adjourn the public meeting, seconded by Mr. Wertz. The motion carried unanimously. The meeting adjourned at 3:05 p.m.

Respectfully submitted,



Meaghan Jerman
Administrative Specialist II